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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,299	02/10/2004	Steven R. Bystrom	212/544	3517
23371	7590	02/22/2006		
CROCKETT & CROCKETT 24012 CALLE DE LA PLATA SUITE 400 LAGUNA HILLS, CA 92653			EXAMINER DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/776,299

Applicant(s)

BYSTROM ET AL.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/10/4, 11/23/4.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. **Claims 1-9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,398,744.** Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to leave out the details of the identification means from claim 1 and the details of the chest compression means from claim 2.

3. **Claims 1-9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,690,969 in view of Halperin et al. ‘674.** It would have been obvious to modify the patented claims to include a chest compression means as taught by Halperin to provide the complete CPR system.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. '426 in view of Halperin et al. '674.**

6. Morgan teaches details of the defibrillation system to be used for CPR patients that uses a communication system so that first responders can communicate with health care professionals. First responders to a heart attack victim don't usually have the proper knowledge to operate a CPR system including a defibrillation device. Therefore there is need for a communication system so that first care responders can communicate with health care professionals. Morgan also teaches that a security system may be needed to prevent unauthorized individuals from operating the system, column 6, lines 52-67. The communication station sends a return signal to the defibrillator authorizing the operation of the system. This communication system provides an identification means for identifying the first responder as a legitimate need for operating the device and the computer system to then accept an authorizing signal from the communication station to functionally enable the device. While Morgan teaches the device is for use in heart attack victims for first responders to administer CPR, Morgan fails to teach how one is to administer the chest compression part of CPR.

7. Halperin teaches the combination of using a chest compression device with defibrillation electrodes and a controller operating both. It would have been obvious to one of ordinary skill in

the art to modify Morgan to include a chest compression device as taught by Halperin to complete the operation of administering CPR.

8. Claims 2-5, 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan et al. '426 in view of Arand et al. '617.

9. Arand teaches that it is desirable for the automatic external defibrillators (AED) to have at least two different levels of access. One level is for first responders to have access to an automated mode for basic life support operation and a second mode restricted to manual functions to qualified advanced cardiac life support (ACLS). Arand teaches restricting access to the manual mode by using a software pass code, column 3, lines 59-61. As noted above Morgan teaches the communication system that unlocks the AED once the communication station authorizes physical access to the device. It would have been obvious to one of ordinary skill in the art to modify Morgan to prohibit functional enablement to the first operator and permit functional enablement of the device to a second operator as taught by Arand to logically segregate and restrict access to manual function to qualified ACLS personnel.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above, and further in view of McGrady et al. '593.

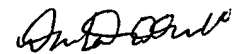
11. Arand teaches using a software pass code to access different levels of operation. McGrady teaches using an access card reader as an example of a software pass code. It would have been obvious to one of ordinary skill in the art to further modify Morgan to use a card reader as taught by McGrady as an example of using a software pass code to determine the level of access.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-Th from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

19 February 2006


Danton DeMille
Primary Examiner
Art Unit 3764